



**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

CGNE.099.03US

In re Application of: Knauf and Kridl

Application No.: 09/232,861

Filed: January 15, 1999

For: Methods and Compositions for Regulated Transcription and Expression of Heterologous Genes

The assignee for the instant application is Calgene, LLC. The assignment was recorded in the Patent and Trademark Office on 30 September, 1997 at Reel 8752, Frame 0174.

The undersigned attorney has reviewed all the documents in the chain of title of the instant application and, to the best of the undersigned's knowledge and belief, title is in the assignees identified above.

The owner\*, Calgene, LLC of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,420,034. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns. The full statutory term for the patent extends to May 5, 2009.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate:

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

☒ Terminal disclaimer fee under 37 C.F.R. 1.20(d) included.

☒ PTO suggested wording for terminal disclaimer was

☐ unchanged

☒ changed (if changed, an explanation should be supplied)<sup>†</sup>.

<sup>†</sup>The statement that the undersigned has reviewed the chain of title documents is inserted.

<sup>†</sup>The date to which the full statutory term extends is inserted.

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2.



The undersigned is an attorney of record for Application No. 09/232,861,  
Attorney Docket No. CGNE.099.03US.

June 16, 2000  
Date

Barbara Rae-Venter  
Signature

Barbara Rae-Venter, Ph.D.  
Reg. No. 32, 750

>\* Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee.<